

THE BEGINNING OF PUBLIC HEALTH CONTROL
IN ENGLAND, 1870-1890

*A Study of the Extension of the Functions of Government
in the Later Nineteenth Century*

BY

ANN FRANK BECK

Physicum, University of Berlin, 1922

A. M., University of Illinois, 1946

AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY IN HISTORY
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I.

The problem of this thesis is not to trace the development of public health from a purely medical point of view or with regard to local government only. It will be attempted to show how, in the period from 1870 to 1890, the public health legislation and its administration became gradually more effective after the regulation and protection of public health were taken out of the hands of individual promoters and charitable institutions. The control by organs of the State became increasingly necessary and conflicted with the well founded suspicion which the nineteenth century held against the growing power of the State.

A dramatic fight resulted between the adherents of the laissez-faire doctrine, and the individualists on the one hand, and those who saw and knew from experience that sanitary reform needed centralization, systematic organization and a nation wide application in order to be effective.

In this struggle which was fought over the best means of how to care for the health of the people and prevent disease throughout the country principles were at stake which far transgressed a subject seemingly only concerned with things of the body.

The nineteenth century faith in the unlimited possibilities of science spurred the reformers on to do away with the evils of dirt, infectious disease and impure air. But the honest desire to defend the traditional principles of the individual liberty and freedom from state interference, unrestrained economic development in commerce and industry,

and personal responsible action, caused people to fear that public health measures would deprive them of the essential basis of their political system. Hence, in the course of debates and discussions before the enactment of sanitary legislation, matters of purely medical and physical concern are lumped together with matters of principle.

The history of sanitary progress from 1870 to 1890 will not only be concerned with the measures actually taken, but also with the justification with which the people backed up their action. Not only did men ask themselves whether the state ought or ought not to interfere with regard to health, but they even questioned the desirability of the improvement of public health, if imposed from above. The "right to be dirty" was defended in spite of the fact that medical men decried dirt as dangerous to health.

The stand which people took in the fight for or against public health was largely influenced by the ideas of such thinkers as John Stuart Mill, Thomas Carlyle and Herbert Spencer. The definition of the state had undergone some modifications in the half century and more which had passed since the time of Adam Smith and Jeremy Bentham. "New democracy" and socialism were terms cropping up everywhere in the considerations of the thinkers from Carlyle to Spencer. It could not be overlooked any longer that the state was extending its realm in spite of the doctrine that "*Laissez-faire* . . . should be the general practice; every departure from it, unless required by some great good, is a certain evil." Mill wished to see the functions of any government restricted, whether it was a government truly representative of the people or one representing one class only. He found it difficult to devise a fixed scheme of limitations ready for use by the statesmen. He conceded to the state the general functions of protection, and in addition to these he would permit a few other functions summarized as "expedient". His criterion for the limitation of state action was the ability of the individual person to develop

freely in spite of the restrictions of society in which he lived. Mill did not find a solution for the contradiction arising from the postulated strict non-interference in the individual's "inner circle" and the damage done to the free development of the individual by the unrestrained actions of others.

Carlyle rejected the views expressed in Mill's *Political Economy*. His solution was simpler. In order to reconcile "inevitable democracy" which he disliked, but which he could not prevent from coming, with the indispensable sovereignty of the state, he proposed that the governing classes make their despotism just. He had little regard for human freedom, at least as far as the ignorant were concerned, whose "right" was, he thought, to be gently or forcibly held in true course. It was just this disregard of human freedom which the opponents of state interference used as an argument against such action.

Spencer, like Mill, rejected the concept of a paternalistic and powerful state. He, too, wanted to see the freedom of the individual preserved. But his motives were unlike those of Mill. Due to his theory of evolution, his aim was to give the individual the utmost of liberty so that he might be able to develop his faculties gradually, in a slow process of growth. He held, therefore, that it was the function of the government to see "that the liberty of each man to pursue the objects of his desires is unrestricted, save by the like liberty of all." Convinced of the necessity of limiting the power of any government, be it Liberal or Tory, Spencer was entirely opposed to state interference. He combined the laissez-faire economical doctrine with his biological theory of evolution and had no way of understanding the complex nature of the modern state. He felt that neither the motives behind the legislative controls nor the representative composition of the government could serve as an excuse for the principle of limitation as such.

Spencer had no remedy for the sanitary evils other than the device of unrestrained commercial activity. But he seemed to overlook the fact that the unrestrained commercial activity in the late eighteenth century had led, in the beginning of the nineteenth century, to the chaotic growth of industrial cities. In them self-interest had free play, commercial profit was unlimited and the slums of the manufacturing towns in the 1830's were the result.

The views of Mill, Carlyle, and Spencer were reflected by the contemporary writers in their discussions of sanitary reforms. In some articles the despotism of a state controlled administration was attacked. In others the concept of the state as "social whole" was rejected because such a view disregarded the fact that individuals remained individuals, irrespective of whether there was a larger or smaller social group. No definition was given for the essential realm which the "imaginary whole", called the state, could not transgress. Other writers accused the "new democracy" of trusting blindly in the omnipotence of government. Such a naive trust should be checked by an educated public opinion capable of distinguishing where state action should be replaced by individual initiative.

Yet there were other writers among the younger generation who struck a new note. George Goschen, former Poor Law Board President and later First Lord of the Admiralty, summarized these views in 1885 when he stated that the belief was growing "in the capacity of the state for direct beneficial action on the condition of individuals and classes." No longer was the saying valid that man cannot be made sober by Act of Parliament. In Goschen's opinion public opinion was moving in the direction of compelling the authorities to accept new functions. He was convinced that in the 1880's "the belief in the all-sufficiency of private enterprise" was beginning to break down.

In spite of heated controversies on the nature and limitations of government, there was an increasing awareness in

the later part of the nineteenth century that the traditional concepts of the state were undergoing considerable changes. Out of the evils of a rapidly industrialized, complex, and abruptly grown civilization there arose the need for government departments, inspectors, and intermediate authorities. When the new masses of the "new democracy" needed more water than the existing facilities could give them, or adequate drainage for the increased number of houses, large sewage systems and less adulterated food to eat, such very practical problems required changes in the machinery of government and speedy enactment of new legislation. But the thinking of the time tended to cling to the doctrines of laissez-faire, natural evolution, and economic individualism. To the contemporary observer it was as not evident as it is to us today, that the machine industry, based on planning and precision, was bound to come into conflict with the "natural laws" which Spencer hoped to see prevail, if only laissez-faire and the free contract régime were upheld.

II.

Those who fought for the reform of the public health administration were confronted with a complex variety of obstacles. There was the fear that changes in the system of administration would lead to social revolution. The constant new developments made in science and medicine which took place while the sanitary reforms were planned and carried out, made it necessary to revise the new methods which the administrators and professional men had just recently applied. This led to the suspicion among the masses that the new policies were based on a less firm ground than the past practices which had been abandoned. This suspicion induced the masses to oppose the new legislation. The ignorance and *vis inertiae*, always serious obstacles to new developments, frustrated the progress of reforms. Measures for the control of public health could be successfully applied only, if they were adhered to by people who understood the reasons for interference in their private lives.

The administrative system itself required new relations between the central and local authorities. The unwillingness of the people to revise their traditional views was supported by politicians who did not want a change.

The movement for a reorganization of the sanitary administration started in 1868 when the medical profession became alarmed by the inefficiency of the haphazard statutory enactments since the creation of the Board of Health in 1848. Under the existing conditions preventive medicine did not succeed in removing the causes of deaths by epidemics, nuisances, and overcrowded living quarters. The medical profession suggested the creation of an administrative system which would permit the application of new techniques and inventions in a systematic and more coherent way than had been the case in the past. A uniform sanitary administration throughout England was needed. The medical group petitioned the government to hold an inquiry. The appeal for reform would not have been heeded so promptly, unless the failure of the sanitary legislation of the past had been so glaring ever since the dissolution of the Board of Health in 1858. Still in 1868 Disraeli's conservative government planned for the appointment of a Royal Sanitary Commission. Under Gladstone's liberal administration this plan was carried out. In April 1869 the Royal Sanitary Commisison of Inquiry was appointed.

The Commission submitted its findings to Parliament in 1869 and 1871. Its report became the basis for the legislative and administrative changes of the following decades. The Commission proceeded with an extreme thoroughness. Its investigations transgressed the narrow field of sanitary legislation and control. The commissioners reviewed the history of health legislation since the beginning of modern times. In their investigations of the reasons for the failure of former bills they discovered that basic principles had been disregarded.

They found that the sanitary legislation, in order to be

effective, must be uniform. Disease suppressed locally only was bound to hit another community; it could not be checked by sporadic measures. A uniform application of administrative measures needed a center from which uniform action could originate. If a central authority was to be created, opposition would be raised against the disregard of English traditions of government. Therefore it was necessary to relate the new central authority to the existing local authorities in a way that would not offend the "spirit of local independence". The luxury of being able to afford such a spirit should, however, not be paid for by the disregard of the directions which the new authority would give. A balance must be found between "permissive" and "compulsory" legislation. Previous sanitary acts between 1833 and 1869 had left the adoption of legislation optional, and as a result the most retrogressive communities failed to introduce sanitation although they needed it most. The commissioners found that coercion must be extended in the future.

Coercion was generally abhorred because it often led to autocratic methods like in France and Germany. But the voluntary adoption of provisional orders ordinarily failed to have the desired results in those cases where the vested interests of the localities conflicted with the provisions of the orders. Here was a conflict which was to be solved with the least amount of damage to basic moral and political principles. The commissioners recognized that "the prescriptive right to be dirty" conflicted with the duty of the state to protect the health of its citizens.

The acknowledgment of this conflict raised another issue. It had to be proved that the state had the right to be concerned with sanitary legislation. The commissioners used utilitarian arguments to prove the state's right of administering public health. They pointed at the "constant relation between the health and vigour of the people and the welfare and commercial prosperity of the state." They believed that

the correctness of this view needed no further argument.

III.

The recommendations of the Royal Sanitary Commission were handed in to Parliament early in 1871. The creation of the Local Government Board still in the same year was the first tangible result of the Commission's recommendations. A central authority was established which combined the former Poor Law Board, the Medical Department, formerly under the Privy Council, the Local Government Act Office, formerly under the Home Office, and the Registrar General's Office. For all these branches one single Secretariat was set up under the Local Government Board. It seemed as if the former dispersion of authorities was now carried to the opposite extreme.

The Board was not very popular among the contemporaries. Yet it does not deserve the blame which was heaped on it. A new huge central authority was necessarily the victim of a certain amount of routine work. The strongest contemporary critic of the Board was John Simon, its first chief Medical Officer and formerly the Medical Officer of the Privy Council. His ideas conflicted with the views of John Lambert, the first Permanent Secretary of the Board. Simon wanted to use the Board as a central research agency, collecting and integrating the latest findings of medical and scientific research. The application of these findings should be facilitated by a host of medical inspectors which would report about local conditions. Lambert was more interested in the centralization of all incoming and outgoing information in the central Secretariat which handled general matters in respect of the functioning of the machinery of the Board. The new Board was often assailed as being nothing but the old Poor Law Board in disguise. During the first decade of its existence the Local Government Board applied Lambert's methods. Inspectors with no particular medical or technical experience and training supervised the function-

ing of the system and coordinated local and central action. Under the administration of Sir Charles Dilke in the early 1880's the medical and technically competent inspectors were given preponderance. It was attempted to relegate bureaucracy into the background.

Another recommendation of the Royal Sanitary Commission was embodied in the Public Health Acts of 1872 and 1875. The entire country was compelled by law to introduce local sanitary authorities which were equipped with at least one medical officer of health, one inspector of nuisances, and other clerks. These new authorities were financed by funds out of local rates. Particularly expensive projects, such as the construction of sewers, drainage systems, and water works could be financed by loans from the Public Works Loan Commissioner. A stricter control by the central authority was introduced in a number of ways.

The Public Health Act of 1875 which consolidated twenty-two former statutes into one did not introduce any revolutionary changes with regard to public health itself. Its value lay in the clarification of the issues rather than in any innovation.

In the years following 1875 a number of new statutory enactments became necessary. An important field of legislation had not been included in the Public Health Acts. This was the pollution of air and water by manufactures and the dense masses of the population. The Rivers Pollution Prevention Act of 1876 made it a statutory offence to disregard the right which every person had to breathe clean air and to drink pure water. The Rivers Pollutions Commission which had investigated the polluted condition of the rivers and streams of Great Britain between 1868 and 1874 had come to the conclusion that only the state was in a position to protect the people from pollution. The Commission gave arguments for the right of the state to include these new protective duties within its general duties of

protecting the life and property of its citizens. The Rivers Pollution Commission proceeded very much like the Royal Sanitary Commission. It collected a vast amount of factual evidence in all parts of Great Britain and then analyzed the material with a view to a common solution. A uniform policy and uniform action for all kinds of pollution were found to be imperative. Pollution committed locally and individually affected the entire basin of a river. The setting up, however, of a number of independent river authorities with jurisdiction over one river basin only would be unfair to the competing manufacturing interests. The legislation of one authority might be more lenient than that of another one. Consequently one industry might be enabled to work under more favorable conditions than the same kind of industry in another river basin. A uniform policy and an equal administration of justice were therefore recommended by the Commission in the interest of the competing manufacturing interests. As a result of the Act of 1876 industrial and personal refuse could no longer be disposed of as one saw fit. Solid and liquid refuse must be discarded according to rules set up by the chemists and engineers.

There were a number of other less spectacular laws whose enactment was less noticed by Parliament and the contemporary press. Yet every new act, however small it was, led to the introduction of new officials, such as the water examiners and food inspectors.

The Medical Act Amendment Act of 1886 tagged qualified doctors by licenses so that the inexperienced men were warned not to select a doctor whose training did not satisfy the minimum requirements prescribed by the Medical Council. The act did not go as far as had been proposed in Parliament in order to give the state a larger share of control in the medical examinations.

In 1889 the Notification of Infectuous Diseases Act helped to protect the people from infections which they were likely to contract through the carelessness of their neighbors.

All these measures of protection which were administered by the state had become necessary through the complexity of modern life. The individual could not defend himself against the hazards which threatened him everywhere in the overcrowded new urban centers and even in the rural communities. The "instinct of self-preservation" which Spencer wanted to see preserved, had sufficient scope for further development in the complicated life of modern man.

IV.

When the new laws were discussed in Parliament and when the new machinery was created, the opposition to the new measures was expressed along much the same lines as had been anticipated by the Royal Sanitary Commission. The knowledge of such an opposition in the course of the 1870's and 1880's cannot be gained from the official reports of the Local Government Board. It described merely the satisfactory execution of their regulations and did not mention the obstacles it encountered. According to these reports constant progress was made. Health officers were introduced by the urban and rural communities in a steadily growing number. Sanitary authorities could be found throughout the country. The annually rising amounts of local spending for sanitation seemed to indicate that the laws were observed satisfactorily.

But more concrete descriptions of the actually prevailing conditions in a number of urban and rural authorities were revealed by the cholera report of 1884 to 1886. This report showed that although there were sanitary authorities in every community, a number of them did little or nothing to be properly instructed as to the sanitary requirements of their districts. Although they had medical officers of health, they did not ask for reports from them and left things drift as they had done for many years previously. Still other sanitary authorities were tardy in the application of rules. They were too tender in dealing with nuisances

which occurred on private premises and payed no attention to the conditions under which the poorer classes of the population lived.

Such a neglect showed clearly that the introduction of laws and administrative officials alone did not produce automatically the desired results. Education was needed in order to make the people understand why they should support the measures of legislation and control. Many evasions of the law were the result of ignorance. This task was undertaken by the Sanitary Institute of Great Britain. It was founded in 1876 by a group of men who were interested in the promotion of public health through education. At annual meetings discussions were encouraged on the results so far achieved and on a better program for the future.

In one important field of the public health legislation the opposite development took place. This was the field of public and compulsory vaccination. Public vaccination had existed since 1840. The Acts of 1867 and 1871 had introduced its general compulsory application and the imposition of fines and even imprisonment for the violation of the laws. The well organized and passionate opposition movement made it necessary to repeal the Vaccination Laws in 1898.

Individual freedom, it was said, was interfered with by the state through compulsory vaccination. Every man had the right to act according to his conscience when "beliefs" were at stake. The anti-vaccinationists did not recognize the state's right to control in the field of vaccination although they did not object to it in other fields of public health. Conscientious objection was claimed. It was said, furthermore, that vaccination represented an unjustifiable interference in the parent-child relations. Since parents had the duty to protect the life and happiness of their minor children, they were entitled to judge for themselves whether vaccination was harmful or not.

The fight against the vaccination laws was carried on in an emotional rather than objective way. The motives for disobedience to the vaccination laws were stressed as valid reasons for exemption from punishment. Here a misconception of individual liberty was obvious. The individual disbelief in a remedy which had been confirmed by science and experience was no justification for relieving the conscience of the disbelieving individual at the expense of society. The objectors did not fight against the law as such but for the exemption from obedience to the law for a particular group of people. They claimed for their conscientious objection to vaccination the same rights as had been granted to the Quakers and thereby they placed their disbelief in vaccination in the category of religious beliefs. The objectors made still another mistake. They confused their responsibility for the lives of their minor children with their ability and their right to understand and judge the scientific basis on which the vaccination laws were founded.

V.

The basic features of the public health administration had emerged by 1890. The improvements and additions made in later years represented only the adjustment of the already existing machinery to the scientific and social changes of the twentieth century. The progress of the public health administration between 1870 and 1890 had been slow. It encountered strong resistance to every new measure.

Those who opposed the public health measures thought that essential concepts were at stake. It was believed that the dignity of human beings required their unlimited freedom of action. It was doubted that man could develop his individual nature if rules, imposed by an impersonal and remote authority, were permitted to interfere with his actions. Taxes were objected to on these grounds. While

the activities of the state were extended, the individual watched with suspicion over every infringement of his customary rights.

There were still other motives which induced the people to retard the progress of the sanitary administration. The apathy of the ignorant men made itself felt when they could not see the immediate advantage of the proposed measures. Greed and vested interests were frequently masked behind the defense of freedom. The new conditions which science and technology had created could not be evaluated by the contemporaries. Many critics of the new measures feared that the surrender to any kind of state control would lead to restrictions in the field of economics. They did not want the return of the limitations of mercantilism.

The word "freedom" was often misused in the discussions of the period. The "freedom" to have idiosyncrasies according to one's liking was confused with the freedom to develop one's personality. The freedom of disposing of one's property without interference by a public authority was considered as absolutely essential, even if the unrestricted bargaining for such property would prevent a community from getting an adequate supply of water.

Those who were opposed to any extension of the functions of government yielded only after a catastrophe had occurred. They were more inclined to yield when moral considerations were introduced into the controversial issues. It was, however, senseless to speak of "moral and physical pollution" in order to impress the majority in Parliament with the need for immediate sanitary action. It was regrettable that when the regulations for man's material welfare were discussed, the opponents pointed at the danger which these restrictions would bring to man's moral and intellectual freedom. Although the fear for the loss of individual liberty was highly exaggerated, and in some cases hypocritical, the constant emphasis on the preservation of freedom was helpful

in one respect: It reminded lawmakers and administrators that their regulations must not transgress the field of merely external freedoms. The expansion of the English public health administration did not destroy local government.

The history of the English sanitary administration of the later nineteenth century reveals to the modern observer that the extension of the functions of government was not the outcome of particular theories of the state. The new controls were the necessary additions to functions which existed already. They were introduced only when private effort could not provide sufficient protection for the public. That the controlling functions themselves were kept under control and that the state was not made an end in itself, was largely due to the importance which the contemporaries attributed to the concept of individual liberty.

VITA

Ann Frank Beck was born in Braunschweig, Germany, on August 5, 1903. She attended elementary and high schools in Berlin. She studied medicine at the universities of Berlin, Heidelberg, and Munich from 1919 to 1923. In 1922 she made the Physicum at the University of Berlin. From 1941 to 1944 she was an Assistant in Research at the Institute of International Studies, Yale University. From 1944 to 1945 she did graduate work in history at the University of Pennsylvania and was awarded a University Scholarship there in 1945. From 1945 to 1948 she continued her graduate studies in history at the University of Illinois. She took her Master's degree at the University of Illinois in June, 1946. From October, 1945, to June, 1948, she was a Research Assistant in the Department of History of the University of Illinois. She is a member of Phi Beta Kappa.

